

Testimony of Jay Wilson Preston
Senate Natural Resources and Energy Committee
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STATE NATURAL RESOURCES
COMMITTEE NO. 7
DATE 1-26-07
BILL NO. SB189
Chairman, Ronan Telephone Company
January 26, 2007
406-676-2751

SB189 - Kitzenburg - "An Act establishing the authority of the Public Service Commission to periodically require public utilities to file general rate cases .. specifying .. public utilities have the burden of persuasion"

Mr. Chairman and members of the Committee, my name is Jay Preston and I am Chairman of Ronan Telephone Company and I also speak today for Hot Springs Telephone Company. We rise in opposition to SB189. We oppose this bill for two reasons:

1st: Robust competition now exists in Montana for telecommunications in all but the very smallest communities¹. After finally achieving this goal, let the marketplace work to benefit consumers. The notion that more telephone regulation is now needed is dead wrong!

2nd: The Montana Constitution clearly designates the Public Service Commission as the impartial Judge in regulatory proceedings². You as legislators, supervise the Montana Consumer Counsel as the prosecutor representing the public³. This Bill adds the role of prosecutor for the Commission in addition to being the Judge. This law will also reverse the current presumption that our rates are reasonable. If SB 189 becomes law, we as regulated utilities may have the unique distinction of being the only category of defendants in our entire legal system who are forced to initiate a proceeding against our will where we will bear a presumption of guilt and face two prosecutors, the most powerful of which are the Commissioners who also serve as the Judge and Jury.

In America, an impartial judiciary and the presumption of innocence are founding principles of our law. This bill turns these bedrock principles on their head and should be rejected by this committee for that reason alone.

In Ronan and Pablo, voice service is currently available from four suppliers: Alltel, Verizon, Chinook and Ronan Telephone. In addition, Bresnan will soon become the fifth providing an exact duplication of the wire line voice service we provide. We also have seven local sources of data services: Bresnan, Salish Kootenai College, TransARIA, Alltel, Verizon, Chinook and Ronan Telephone. In this crowded marketplace, Ronan Telephone Co. is the only provider regulated by the Montana Commission.

¹ The vast majority of these smallest communities, where competition remains very limited are served by member owned telephone cooperatives which are exempted from PSC jurisdiction. Thus, communities that benefit the least from the emerging competitive telecommunications market would not benefit from SB189 if it is enacted.

² 69-3-324, MCA - "The commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, practices, and services and after a full hearing as provided in this part may make by order such changes as may be just and reasonable, the same as if a formal complaint had been made." This statute is the first reason this Bill is unnecessary.

³ 69-2-202, MCA - "The consumer counsel may institute proceedings before the commission against regulated companies". This statute is the second reason this Bill is unnecessary.

Compare these seven telecom choices with other sectors of our economy. My community has three supermarkets, two banks, three hardware stores, two auto parts stores, one consumer electronics store, one building materials supplier, six restaurants and six gas stations. As you can see, my neighbors have more choices for telecommunications than in **every other major retail sector of our economy!**

In closing I would like to quote one of my Montana heros, Dr. K. Ross Toole. In his last series of Montana history lectures at the University of Montana in 1981, Dr. Toole stated the following:

"I think the free enterprise system is probably the best system ever invented by man in terms of the production and distribution of goods, provided that the system is free, number one, and two, enterprising. ... I think the marketplace is the best determiner that we have of what ought and ought not to be produced, provided the marketplace is left alone."

In the 130 year history of the telephone industry, the Bell System was a strict monopoly for 112 of those years. Only in the last 10 years have we mostly reversed that long held policy of regulated monopoly in favor of a much more open market. We in Montana are finally seeing Dr. Toole's vision of a truly free and enterprising telecommunications market emerge. We should do all we can to make this vital market even more free and enterprising in the future, and everybody will benefit from that effort. The road we now travel will lead to more choices, better services and lower prices in the new world of telecommunications.

SB 189 is a backwards looking measure that will slow our progress on this journey.

I thank you for your time and attention.